

UNITED STATES DISTRICT COURT

for the

District of Massachusetts

Worcester Division

Gerald N. Pellegrini

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Northeastern University and Nian X. Sun

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case No. _____

(to be filled in by the Clerk's Office)

Jury Trial: (check one) ☐ Yes ☒ No

FILED
 IN CLERKS OFFICE
 2017 NOV 27 AM 11:53
 U.S. DISTRICT COURT
 DISTRICT OF MASS.

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Gerald N. Pellegrini
Street Address	37 Granby Road
City and County	Worcester
State and Zip Code	MA 01604
Telephone Number	508-450-4632
E-mail Address	gnpellegrini@aol.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

Defendant No. 1

Name	Northeastern University
Job or Title <i>(if known)</i>	Massachusetts Corporation
Street Address	716 Columbia Avenue
City and County	Boston
State and Zip Code	Massachusetts 02115
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 2

Name	Nian X. Sun
Job or Title <i>(if known)</i>	Northeastern University Professor
Street Address	360 Huntington Avenue (406 Dana)
City and County	Boston
State and Zip Code	Massachusetts 02115
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal question ☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

Fifth and Fourteenth Amendments to the U.S. Constitution protecting rights of due process

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* _____, is a citizen of the State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated under the laws of the State of *(name)* _____, and has its principal place of business in the State of *(name)* _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, *(name)* _____, is a citizen of the State of *(name)* _____. Or is a citizen of *(foreign nation)* _____.

b. If the defendant is a corporation

The defendant, *(name)* _____, is incorporated under the laws of the State of *(name)* _____, and has its principal place of business in the State of *(name)* _____.

Or is incorporated under the laws of *(foreign nation)* _____, and has its principal place of business in *(name)* _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

Crucial fact witness deposition testimony was excluded from admissible evidence without procedural due process in Plaintiff's state civil action against the Defendants for deprivation in the value of Plaintiff's patents.

In the course of discovery in this state civil action Defendants deposed fact witness J. Barry Herring at a deposition on September 18, 2015. Responding to a question posed by Defendants' counsel regarding the value of Plaintiff's patents at issue in the case Herring answered that the patent is "worth a lot less than before [Defendants'] paper was published". Defendants' counsel made no objections to Herring's answer at the time of taking the deposition. Plaintiff and Herring were given no timely notice of any alleged irregularities in Herring's answer, and given no timely opportunity to correct any such irregularities.

In its October 30, 2017 Memorandum and Order the Massachusetts Appeals Court found Herring's answer inadmissible as "unsupported lay opinion" and affirmed summary judgment dismissal of the state civil action for lack of evidence that Plaintiff's patents have lost value. Plaintiff has no opportunity to present Herring's answer as evidence that Plaintiff's patents have lost value to the trier of fact.

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Plaintiff requests a declaratory judgment that Herring's answer was improperly, and without procedural due process, excluded from the admissible evidence in Plaintiff's state civil action against the Defendants for deprivation in the value of Plaintiff's patents.

Plaintiff also requests that the court order an appropriate remand of the state civil action in order that Herring's answer be heard by the trier of fact.

Plaintiff also requests any other relief the court finds necessary or proper.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: November 27, 2017

Signature of Plaintiff

Printed Name of Plaintiff

Gerald N. Pellegrini
Gerald N. Pellegrini

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address